

**REMARKS**

This is in response to the Office Action dated December 19, 2002. At the outset, Applicant would like to express its appreciation for the courtesies granted to Applicant's attorney in the interview conducted May 17, 2003 with Examiners Desai and Rada.

Claims 13-20, 22-26 and 28-51 remain pending in the application, Claim 27 has been cancelled, new Claims 51-54 have been added to further define patentable aspects of Applicant's invention. Previously pending claims 13-20 and 22-51 were rejected under 35 U.S.C. 103(a) as being unpatentable over Larsson et al ( 4,413,464) in view of Aghassipour (5,595,320). Claims 33-34 and 40 have been alternatively rejected under 35 U.S.C. 103(a) as being obvious in view of these two references and further in view of McCord (728,749). All of the pending claims now affirmatively claim a container with an inner and outer container. Applicant respectfully traverses this rejection particularly in view of the amendments made to several of the claims herein.

As discussed in the interview, the Larsson reference differs in at least three major ways from Applicant's claimed invention. First, the height of the sidewalls and flaps of the Larsson inner container are not in any way adjustable. As a result, the Larsson inner container cannot be utilized to either accommodate a full shipment of a partially full shipment when it is desired to have minimal airspace inside the inner container once the material being shipped is packed as is possible in Applicant's claimed invention. The height of the Larsson sidewalls is not described as being adjustable at all.

The second major distinction is that the Larsson patent specifically indicates that the inner container is attached to the inner wall surface of the outer container. This is not the case in Applicant's claimed invention. As a result, the Larsson inner container is not removably

inserted into the outer container but instead it is fastened to the inwardly directed circumferential flange of the outer packing enjoining the outer edges of the bottom surface thereof. As a result, the Larsson construction of the inner container can only be filled after it has been combined with the outer supporting container. It likewise has no air space between the inner and outer container where it is joined which yields an unfavorable insulation condition that does not exist in Applicant's invention.

The third major difference in the Larsson reference is that the inner container is filled but not removed through the top thereof. After the inner container is filled, the contents are then removed through an opposite opening in the bottom of the container, which is required to be a flat surface without joints, folds or flaps. The Aghassipour and McCord references do not make up for any of these deficiencies in the Larsson teaching.


In contrast, Applicant's invention as set forth in claims 13, 34, 37, 42 and 43 all require that the height of the sidewalls and flaps be selectively adjustable. Claim 52 specifically requires that the inner surface of the outer container is not fastened to any portion of the inner container. As such, it likewise defines patentable subject matter over the Larsson reference and the combination utilized by the Examiner in making the rejection of record.

Claims 51, 53 and 54 specifically require that the top of Applicant's inner container be reclosable, that the top be formed from four flaps or that the top be movable from a first open position to a second closed position, and thereafter back to said first position without forming a moisture proof seal at the top. All of these claimed constructions define patentable subject matter over the Larsson top construction, which is used as a fill opening and is then permanently sealed with material being exited from an opposite opening at a later time and the bottom which is smooth, free of flaps or seams and not reclosable.

In re John W. Becker  
09/492,811

For the foregoing reasons, Applicant respectfully submits that all claims as amended define patentable subject matter over all of the art of record and respectfully requests allowance of all claims. If the Examiner has any questions regarding this amendment, he is invited to contact Applicant's attorney at the telephone number listed below.

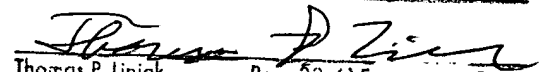
Respectfully submitted,

  
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Thomas P. Liniak      Reg. 33,415      Date

## APPENDIX – MARKED UP VERSION

13. [An inner container designed to be removably inserted into an outer container, said inner container comprising:]

A container for perishable goods comprising:

an outer container;

an inner container removably inserted in said outer container comprising:

(a) a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of a flexible insulating material having one metalized surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

(b) an integral first foldable side flap extending above said first sidewall and having opposing edges, said flap comprising a top edge that is substantially straight along its entire length;

(c) an integral foldable second side flap extending above said second sidewall and having opposing edges, said flap comprising a top edge that is substantially straight along its entire length;

(d) an integral foldable front flap extending above said front wall and integral with the edges of both said first and second side flaps, said front flap comprising a top edge that is substantially straight along its entire length;

(e) an integral foldable back flap extending above said back wall and integral with the edges of both said first and second side flaps, said back flap further comprising a top edge that is substantially straight along its entire length; and

(f) a top formed from said first and second side flaps and said front and

back flaps wherein said first and second flaps are folded and adjacent each other;

wherein the height of said first and second sidewalls and said front and back walls is adjustable.

34. [An inner container designed to be removably inserted into an outer container, said inner container comprising:]

A container for perishable goods comprising:

an outer container;

an inner container removably inserted in said outer container comprising:

(a) a bottom, a first and second collapsible opposing sidewalls extending from said bottom, each constructed of a flexible insulating material having one metalized outer surface, said first and second sidewalls forming an integral moisture proof seal with said bottom and each other;

(b) an integral first foldable side flap extending above said first sidewall and having first and second side edges and a top edge that is substantially straight along its entire length;

(c) an integral foldable second side flap extending above said second sidewall and having first and second side edges and a top edge that is substantially straight along its entire length;

(d) a top formed from said first and second side flaps wherein said first and second side flaps are folded and adjacent each other; and

wherein said height of said first and second sidewalls and said first and second flaps is selectively adjustable, said first and second sidewalls are movable from a first open

position substantially perpendicular to said bottom to a second folded position substantially parallel to said bottom of said inner container assembly.

37. [An inner container designed to be removably inserted into an outer container, said inner container comprising:]

A container for perishable goods comprising:

an outer container;

an inner container removably inserted in said outer container comprising:

(a) a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of first and second layers of flexible insulating material, having one metalized outer surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

(b) an integral first foldable side flap extending above said first sidewall, said first side flap further comprising a top edge that is substantially straight along its entire length;

(c) an integral foldable second side flap extending above said second sidewall, said second side flap further comprising a top edge that is substantially straight along its entire length;

(d) an integral foldable front flap extending above said front end and integral with the edges of both said first and second side flaps, said front flap further comprising a top edge that is substantially straight along its entire length;

(e) an integral foldable back flap extending above said back end and integral with the edges of both said first and second side flaps, said back flap further comprising a top edge that is substantially straight along its entire length; [and]

(f) a top formed from said first and second side flaps and said front and back flaps wherein said first and second side flaps are folded and adjacent each other[.] ; and wherein said height of said first and second sidewalls, said front and back ends, said side flaps and said front and back flaps is selectively adjustable.

42. [An inner container designed to be removably inserted into an outer container, said inner container comprising:]

A container system for perishable goods comprising:

an outer container;

an inner container removably inserted in and not adhered to said outer container

comprising:

(a) a bottom, collapsible opposing first and second sidewalls and front and back walls, each constructed of a flexible insulating material having one metalized surface, said first and second sidewalls and said front and back walls forming an integral moisture proof seal with said bottom and each other;

(b) an integral first foldable side flap extending above said first sidewall and having opposing edges;

(c) an integral foldable second side flap extending above said second sidewall and having opposing edges;

(d) an integral foldable front flap extending above said front end and integral with the edges of both said first and second side flaps;

(e) an integral foldable back flap extending above said back end and integral with the edges of both said first and second side flaps;

wherein the height of first and second sidewalls, said front and back walls and said first, second, front and back flaps is selectively adjustable between a first position that is greater than or substantially the same height as said outer container to a second position that is less than the height of said outer container ; and

a top formed from said first and second side flaps and said front and back flaps wherein said first and second side flaps are folded and adjacent each other.

43. [An inner container designed to be removably inserted into an outer container, said inner container comprising:]

A container for perishable goods comprising:

an outer container:

an inner container removably inserted in said outer container comprising:

(a) a bottom and a collapsible sidewall extending upwardly from the entire periphery of said bottom and having a top edge, said bottom and said sidewall each constructed of a flexible insulating material having an outer metalized surface, said sidewall forming an integral moisture proof seal with and along said entire periphery of said bottom.

(b) an integral first foldable side flap extending above said entire top edge of sidewall, said flap further having a substantially continuous height along its entire length; and

(c) a top formed from said flap that completely closes said inner container[.];

wherein the height of said sidewall and said flap is selectively adjustable.